

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Circuit Mediation Office

Phone (415) 355-7900 Fax (415) 355-8566

<http://www.ca9.uscourts.gov/mediation>

MEDIATION QUESTIONNAIRE

The purpose of this questionnaire is to help the court's mediators provide the best possible mediation service in this case; it serves no other function. Responses to this questionnaire are **not** confidential. Appellants/Petitioners must electronically file this document within 7 days of the docketing of the case. 9th Cir. R. 3-4 and 15-2. Appellees/Respondents may file the questionnaire, but are not required to do so.

9th Circuit Case Number(s):	13-17132		
District Court/Agency Case Number(s):	3:12-CV-03288-WHO		
District Court/Agency Location:	U.S. District Court for Northern California, San Francisco		
Case Name:	Teixeira, et al.	v.	County of Alameda, et al.
If District Court, docket entry number(s) of order(s) appealed from:	58 (including 37 and 56)		
Name of party/parties submitting this form:	All Plaintiffs and Appellants		

Please briefly describe the dispute that gave rise to this lawsuit.

Certain of the Plaintiffs decided to open a gun store in Alameda County. They were informed that certain fairly new zoning ordinances restricted the areas in which gun stores could be operated. Plaintiffs found a space for their store, but there was a dispute about whether it met the requirements of the new zoning ordinance. Even so, the zoning board approved Plaintiffs' application. An untimely appeal was then filed by a local association. It was sustained by the County Boards of Supervisors. Plaintiffs sued to enforce their rights, including their rights as protected under the Second Amendment of the U.S. Constitution.

Briefly describe the result below and the main issues on appeal.

The proceedings below primarily involved a motion by the Plaintiffs for imposition of an injunction and two motions to dismiss filed by the Defendants. The first motion to dismiss was granted with leave to amend at the same time that Plaintiff's motion for an injunction was denied. The Defendants' second motion to dismiss was granted without leave to amend and judgment was entered in accordance with the decision. The overriding issue in this appeal is whether the Second Amendment protects Plaintiff's right to open a gun store.

Describe any proceedings remaining below or any related proceedings in other tribunals.

None.

Provide any other thoughts you would like to bring to the attention of the mediator.

Based upon the stridency of the Defendants' positions, as well as what the Plaintiffs see as clear error, it does not appear that there is any middle ground upon which the parties might reach a settlement. Moreover, this case is one in which Plaintiffs seek to have Defendants (and other governmental authorities) respect Second Amendment rights. Defendants seem adamantly opposed to recognize Second Amendment rights. As such, Plaintiffs see no hope for any settlement.

Any party may provide additional information *in confidence* directly to the Circuit Mediation Office at ca09_mediation@ca9.uscourts.gov. Please provide the case name and Ninth Circuit case number in your message. Additional information might include interest in including this case in the mediation program, the case's settlement history, issues beyond the litigation that the parties might address in a settlement context, or future events that might affect the parties' willingness or ability to mediate the case.

CERTIFICATION OF COUNSEL

I certify that:

a current service list with telephone and fax numbers and email addresses is attached
☒ (see 9th Circuit Rule 3-2).

I understand that failure to provide the Court with a completed form and service list
☒ may result in sanctions, including dismissal of the appeal.

Signature

("s/" plus attorney name may be used in lieu of a manual signature on electronically-filed documents.)

Counsel for

Note: Use of the Appellate ECF system is mandatory for all attorneys filing in this Court, unless they are granted an exemption from using the system. **To file this form electronically** in Appellate ECF, complete the form, and then print the filled-in form to PDF (File > Print > PDF Printer/Creator). Then log into Appellate ECF and choose Forms/Notices/Disclosure > File a Mediation Questionnaire.

9th Circuit Case Number(s) 13-17132

NOTE: To secure your input, you should print the filled-in form to PDF (File > Print > *PDF Printer/Creator*).

CERTIFICATE OF SERVICE

When All Case Participants are Registered for the Appellate CM/ECF System

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on (date) December 2, 2013 .

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Signature (use "s/" format) s/ Charles Hokanson

CERTIFICATE OF SERVICE

When Not All Case Participants are Registered for the Appellate CM/ECF System

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on (date) .

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within 3 calendar days to the following non-CM/ECF participants:

Signature (use "s/" format)